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Attorneys for Defendant

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

REBECCA K. SMITH,

Plaintiff,

v.

MICHAEL J. ASTRUE,
 Commissioner of
 Social Security,

Defendant.

CIVIL NO. C-09-03777 MHP

AMENDED
 STIPULATION AND ORDER APPROVING
 SETTLEMENT OF ATTORNEY FEES
 PURSUANT TO THE EQUAL ACCESS TO
 JUSTICE ACT

The previous stipulation, signed by the Court on November 16, 2010, contained a typographical error; the words "Eighty-five" were left out of the description of the amount of attorney's fees. This amended stipulation is meant to replace the previously filed stipulation.

IT IS HEREBY STIPULATED by and between the parties, through their undersigned counsel, subject to the Court's approval, that counsel for Plaintiff, as assignee, be awarded attorney fees under the Equal Access to Justice Act, (EAJA) in the amount of FOUR THOUSAND, SEVEN HUNDRED, EIGHTY-FIVE DOLLARS AND THIRTY-FIVE CENTS (\$4,785.35) and FOUR HUNDRED, FORTY DOLLARS AND ONE CENT (\$440.01) in costs. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

After the Court issues an order for EAJA fees and expenses to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees and expenses to Plaintiff's attorney. Pursuant to Astrue v. Ratliff, 130 S.Ct. 2521 (U.S. June 14, 2010), the ability to honor the assignment will depend on whether the fees and expenses are subject to any offset allowed under the United States Department of the Treasury's

Offset Program. After the order for EAJA fees and expenses is entered, the government will determine whether they are subject to any offset. Fees and expenses shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Ian Sammis, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and expenses, and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees and expenses in connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406, subject to the offset provisions of the EAJA.

Dated: December 17, 2010

/s/ Ian M. Sammis
(As authorized via email)

IAN M. SAMMIS
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San Rafael, CA 94901
Attorney for Plaintiff

MELINDA L. HAAG
United States Attorney

Dated: December 17, 2010

By: /s/ Elizabeth Firer
ELIZABETH FIRER
Special Assistant United States Attorney

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of FOUR THOUSAND, SEVEN HUNDRED, EIGHTY-FIVE DOLLARS AND THIRTY-FIVE CENTS (\$4,785.35) and FOUR HUNDRED, FORTY DOLLARS AND ONE CENT (\$440.01) in costs, as authorized by 28 U.S.C. §§ 1920, 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: 1/3/2011

